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Committee on Economic, Social and Cultural Rights
Fifty-seventh session

Summary record of the 7th meeting
Held at the Palais des Nations, Geneva, on Thursday, 25 February 2016, at 10 a.m.

Chair: Mr. Sadi

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The meeting was called to order at 10 a.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Sixth periodic report of Canada (continued) (E/C.12/CAN/6; E/C.12/CAN/Q/6 and Add.1)

1. *At the invitation of the Chair, the delegation of Canada took places at the Committee table.*

2. **Ms. Wernick** (Canada) said that the country's federal system meant that, while common goals were addressed at the national level, regional and local governments could respond to local needs and the needs of minority communities. The system was decentralized and non-hierarchical, and the different entities had different competencies. The work remaining to be done in the area of economic, social and cultural rights had been highlighted the previous day by the news that a public health emergency had been declared by the Nishnawbe Aski First Nation. Social and economic challenges could not be solved by governments alone, and Canada benefited from the work of many non-governmental organizations, one of which, the Caledon Institute of Social Policy, had continued the data collection and analysis efforts begun by the National Council of Welfare.

3. **Mr. Murphy** (Canada) said that there was an extensive income security system at the national and local levels that the Government was endeavouring to strengthen, for example by introducing a new form of child benefit, raising by 10 per cent the guaranteed income supplement for older adults with low incomes and reviewing the employment insurance system. That system provided a benefit equal to 55 per cent of average weekly insurable earnings, up to a maximum amount. In 2014, more than 80 per cent of unemployed persons who had paid employment insurance premiums and subsequently lost their job or resigned with just cause had been eligible. There were also supplements for low-income families with children, and the Government had reduced the basic rate of income tax and created a new rate for high earners.

4. Disaggregated data on discrimination were compiled every five years through the General Social Survey. Broad consultation was planned on a new national poverty reduction strategy, which would support existing territorial, provincial and municipal strategies, and the Government planned to spend more than Can$ 133 billion in 2016 and 2017 on social assistance and services, post-secondary education, childcare and early childhood development.

5. **Mr. Lewis** (Canada) said that, in Ontario, children's tax benefits and supplements were not counted as income for the purpose of accessing social assistance. The issue of cutbacks had arisen in 2008, when children's benefits had been consolidated into a single payment, thus separating them from social assistance payments, which had been reduced accordingly. The consolidated child benefit had risen steadily since its introduction and had allowed more parents to access financial support. A supplement for those with teenage children and for single parents had also been created.

6. **Mr. Sandstrom** (Canada) said that the authorities in British Columbia helped the unemployed to find work and increased the incomes of those in need by means of income assistance policies and benefits for persons with disabilities. There was training and support for single parents seeking employment, and child support payments were fully exempt from taxation. Furthermore, earnings exemptions for

families receiving income assistance and earnings exemptions and asset levels for persons receiving disability assistance had all been increased significantly.

7. **Mr. Théroux** (Canada) said that a minimum wage was in force in all provinces in Canada, alongside a federal minimum wage. In Quebec, the minimum wage was revised each year using 13 socioeconomic indicators, thus ensuring that businesses remained competitive, that employees' purchasing power was maintained and that the wage was an incentive for work. The income of most full-time employees who received the minimum wage was above the Low Income Cut-Off.

8. Quebec's Charter of Human Rights and Freedoms prohibited discrimination on grounds of social condition or disability, among others, while providing specific protection for economic, social and cultural rights. Quebec worked with the federal Government and other provinces, municipalities and territories to fulfil the country's international obligations, and all international human rights commitments were subject to prior approval by the Quebec National Assembly.

9. **Mr. Murphy** (Canada) said that homelessness was a persistent problem in Canada, with approximately 150,000 persons using emergency shelters each year. Through its Homelessness Partnering Strategy, the Government provided financial support to urban, rural, indigenous and remote communities to address local needs, and thereby supported a wide variety of projects. It also adopted a "housing-first approach", which involved moving homeless persons from the streets or shelters directly into permanent housing, while helping them to reintegrate into society.

10. **Mr. Lewis** (Canada) said that persons experiencing or at risk of homelessness in Ontario could access housing and programmes across the province. Since 2003, the authorities had made significant investments in affordable rental housing units, as well as improving the existing social housing stock and providing assistance with rent payments. The Community Homelessness Prevention Initiative assisted those experiencing or at risk of homelessness in obtaining housing. An expert advisory panel on homelessness had been established, and its report had led to a range of short- and long-term actions, including efforts to end homelessness by 2025 and the identification of priority areas for provincial actions to prevent and reduce homelessness.

11. **Mr. Sandstrom** (Canada) said that, since 2001, authorities in British Columbia had invested more than Can$ 4 billion in affordable housing and measures to break the cycle of homelessness. Over the next two years, more than Can$ 218 million would be spent on emergency shelter and housing for the homeless, assisting around 13,000 persons. The measures to tackle homelessness included extreme weather response programmes and an outreach programme that linked homeless persons to housing providers.

12. **Mr. Murphy** (Canada) said that the federal Government was developing a strategy that would provide affordable housing of all types, promote house building programmes and make home ownership accessible to more citizens. It would also address taxation, access to capital, the repurposing of federal land and data collection. A key component of the strategy would be a 10-year programme of investment in social infrastructure, prioritizing affordable housing and housing for older adults.

13. **Mr. Campbell** (Canada) said that the federal Government worked with the provinces, territories, civil society and indigenous leaders to address gaps in health-care provision, particularly with regard to indigenous persons. Priorities included improving home-care services and access to prescription drugs and mental health services. It also invested in a range of mental health programmes and suicide-prevention strategies. Support was given to several community-based sexual and

reproductive health programmes, including some focused on maternal and infant health.

14. The Government's drug policy was evidence-based and balanced regulation and enforcement against health. It included measures to reduce harm to drug users and the wider community. The Government planned to legalize, restrict and regulate the use of marijuana, rather than decriminalize it, and would ensure that children could not access the drug. A task force was planned to provide advice on the design of a new system for its sale and distribution, with input from experts on public health, substance abuse and law enforcement. Lastly, reports on the action taken in the area of childhood obesity had been produced and were available online.

15. **Ms. Wernick** (Canada) said that gender parity was a priority for Canada, at both the domestic and the international levels. Gender equality analyses were conducted of its international development programmes and of the impact of all domestic policy and programme proposals.

16. **Mr. Weldon** (Canada) said that the federal Government was committed to addressing, in consultation with First Nations, all the provisions of the Indian Act that discriminated against women, and it had dropped its appeal in a long-standing case concerning those provisions. While the format of the enquiry into missing and murdered indigenous women was not yet known, a round table on the subject, involving federal ministers and provincial and territorial representatives, was currently being held, allowing the ministers to share the findings of their consultations with victims' families and to discuss their role in the enquiry.

17. **Mr. Lewis** (Canada) said that, as an extension of the "It's Never Okay" programme, which addressed sexual violence and harassment, the Ontario government had invested Can$ 100 million in tackling violence against indigenous women and girls. Measures would include support for children, young persons and families; steps to address human trafficking; reforms to the police and justice system; awareness-raising; violence prevention; improved cooperation with First Nations and the federal Government; improved data collection; and research to make it possible to track the problem.

18. **Mr. Sandstrom** (Canada) said that, since the Missing Women Commission of Inquiry had issued its report, the government of British Columbia had implemented significant changes to improve the safety of vulnerable women. The measures taken included providing training for police officers, developing standards for police officers investigating missing persons cases and establishing a fund for the children of the women identified in the report. On the basis of that experience, the government of British Columbia would provide input to the federal Government on the scope and design of the planned inquiry into the disappearance of hundreds of indigenous women.

19. **Mr. Weldon** (Canada) said that, following consultations with the victims' families, provincial governments and First Nations communities, the federal Government would launch its inquiry into the disappearances in the next few months and was committed to taking action on the resulting recommendations. The Government recognized that indigenous peoples had not always been properly consulted with respect to laws affecting them. To address that issue, the relevant ministries were conducting a review of national laws and assessing them in the light of the State's obligation to consult.

20. **Mr. Sandstrom** (Canada) said that the Government took that obligation very seriously and that it consulted First Nations on, inter alia, environmental impact assessments for major projects and operational activities that had an impact on their use of land and resources. He provided an overview of the many agreements that had

been signed between the Government and First Nations, such as on economic and community development and on the sharing of revenue from mining and forestry.

21. **Mr. Théroux** (Canada) said that the Quebec government had adopted guidelines on consulting indigenous peoples about projects affecting them. He cited an agreement signed between the Quebec government and a First Nations community that granted the community the authority to manage vast tracts of public land. That agreement had also established the State's first regional government with equal representation for indigenous and non-indigenous communities. As for equality between women and men, the Quebec government also conducted gender-based analyses of programmes and took legal measures to ensure parity in representation on the boards of directors of companies, particularly State enterprises.

22. **Mr. Weldon** (Canada) said that a large number of representatives of indigenous peoples had attended the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, which had marked the beginning of a strong partnership between the Government and indigenous peoples in addressing the threat of climate change. A First Ministers' Meeting would be held in the coming days on the subject, and First Nations and Inuit communities would be consulted prior to that meeting. Consultations with indigenous peoples in Quebec were currently under way, with the aim of better understanding their communities' vulnerabilities and helping them to develop adaptation plans.

23. The Nutrition North Canada programme was relatively new, and the Government was committed to engaging with all relevant stakeholders to determine its scope and direction. Retailers involved in the programme must provide information on their profit margins, and an advisory board had been established to ensure that the voices of persons living in northern areas were heard. Further information on the results of the programme could be provided in writing. The Government recognized that not all needs were being met by the programme, and the relevant ministry had been tasked with reviewing and reforming it to ensure that its objectives were achieved. The Government planned to hold consultations on its draft food policy, though no time frame had as yet been established.

24. Since the 1980s, the Government had been taking measures to address the problem of mercury poisoning, including by awarding compensation to those affected and monitoring mercury levels in the water supply. Nevertheless, it remained a very serious issue, and one that required collaboration with local communities to resolve. The Government had made a commitment to ensure that, within five years, access to water in First Nations communities would be comparable to that in similar communities off-reserve.

25. **Ms. Wernick** (Canada) said that the State's multicultural society was proof that it was possible for members of society to express their differences without compromising peace and cohesion. Canada was the only country to have enshrined multiculturalism in its legislation, and its citizens had shown broad support for Syrian refugees in the face of the current refugee crisis.

26. **Mr. Scoffield** (Canada) said that immigration was a major public policy issue in Canada and that each year the country received more than a quarter of a million permanent immigrants, including refugees. The Government invested almost Can$ 1 billion each year in integration programmes for immigrants, and more than 80 per cent of immigrants chose to be naturalized as Canadian citizens. The requested data on labour force participation and unemployment rates among migrants would be provided in writing.

27. Legislation adopted in December 2014 had allowed provincial governments to impose a minimum period of residency before certain categories of foreigners would

be eligible for social assistance, but none had yet chosen to do so. All temporary foreign workers enjoyed the same protection as Canadian workers under labour and health and safety legislation. Employers in the agricultural sector must register foreign workers for health insurance and workers' compensation coverage as soon as they were eligible and ensure that they held private insurance during any period in which they were not covered. In the event of an injury, workers must be provided with timely medical care. If their contract was terminated, they had the right to seek a position with another employer.

28. The Government had recently announced that it would restore coverage under the Interim Federal Health Programme to pre-2012 levels, which would involve providing a number of health-care services to refugees, asylum seekers and persons in the process of appealing the rejection of their asylum application. The Government would resettle 25,000 Syrian refugees by the end of February 2016, in addition to its ongoing commitments to refugees from other parts of the world. It would also be investing large sums in additional integration programmes for those refugees and in humanitarian and development assistance for Syrian refugees in the Middle East.

29. **Mr. Kerdoun**, noting that the provincial and territorial governments held exclusive jurisdiction in matters of basic and secondary education, asked the delegation to explain why indigenous students and students of African descent seemed to suffer the most from the problems plaguing the education system. He wished to know whether the State party had followed up on the Committee's previous recommendations in that regard. He asked what percentage of the federal budget was allocated to education and whether it was true that those budget allocations did not cover higher education. He wished to know whether the federal Government provided any oversight of regional governments in education matters.

30. As he understood it, since Canada had not ratified the Convention relating to the Status of Stateless Persons, such persons could not enrol in the education system, and even those who were granted authorization to enrol were still required to pay much higher tuition fees than other Canadian residents. He asked what measures were being taken to address that situation, to reduce the high dropout rate among indigenous students and students of African descent, to provide access to inclusive education for students with disabilities and to ensure that the children of refugees and recent migrants enrolled in school.

31. **Mr. Uprimny** asked what steps the State party intended to take to address the sharp rise in the cost of post-secondary education that had occurred since the 1990s, as it placed a particularly heavy burden on low-income students and their families. He wished to know whether the Government planned to review the policies responsible for disparities in education between the indigenous peoples and the rest of the population and to increase the funding of indigenous education, in keeping with its intention to support the United Nations Declaration on the Rights of Indigenous Peoples. Given the existence of structural discrimination against African Canadians and their disproportionate dropout rate from education, the State party should view the 2015-2024 International Decade for People of African Descent as an opportunity to develop a general strategy for combating such discrimination.

32. **Mr. Schrijver** said that many indigenous peoples in the State party reportedly faced difficulties in obtaining access to freshwater resources, in spite of the rich abundance of such resources in Canada. He asked what strategy the State party intended to develop in consultation with the peoples concerned in order to ensure their right to a safe water supply.

33. **Mr. Martynov** asked whether it was true that the law barred the members of entire professions, such as the medical, dental, architectural, engineering and legal

professions, from joining trade unions. If that was the case, he wished to know whether the new Government was in favour of amending the law so as to allow unionization.

34. **Ms. Bras Gomes** asked what the State party considered to be the territorial extent of its duty to provide protection against violations of the Covenant by third parties and particularly what it saw as its responsibilities with regard to the human rights violations committed in Guatemala by a mining company that was a subsidiary of a Canadian company. In clarification of an earlier question, she said that anything that deprived people who qualified for social assistance of the income safety net referred to in paragraph 62 of the replies to the list of issues was a cause for concern. In respect of the gender pay gap, she had asked why the policies adopted to address that problem had been unsuccessful for so long. Given that certain grounds for discrimination, while they did not figure in the Canadian Charter of Rights and Freedoms or federal legislation, were included in the Quebec Charter of Human Rights and Freedoms, could they be invoked before the courts of other provinces? Lastly, she urged the Government to increase funding and support for African Canadian art, film and culture as part of the International Decade for Persons of African Descent.

35. **Mr. Pillay** said that he would appreciate receiving answers to the series of questions he had asked about the right to adequate housing. Reports indicated that the number of homeless persons in Canada was more than twice the figure provided by the State party, and he recalled that all the recommendations regarding homelessness that had been made by the Committee in its concluding observations in 2006 (E/C.12/CAN/CO/4) were still pertinent. In one Canadian province, homelessness was criminalized; yet a person who set up a tent in a public space to protest homelessness was allowed to do so in the name of freedom of expression. That was evidence that economic, social and cultural rights were not respected on an equal footing with civil and political rights. In order to comply with its Covenant obligations, the State party should treat the right to housing as justiciable and should provide redress to persons who claimed that their right to housing had been violated. Such redress was a core obligation arising from the Covenant and was of immediate effect.

36. **Mr. De Schutter** welcomed the information that a First Ministers' Meeting on climate change had been organized between the federal, provincial and territorial governments and indigenous leaders. However, the adoption of federal omnibus bill No. C-38 on the Income Tax Act had seriously weakened a number of environmental regulations, reportedly as a result of the State party's desire to support oil and gas exploitation. Moreover, the Oceans Act and the Oceans Strategy had resulted in only very few protected marine areas and the federal Government had not recognized the Indigenous Community Conserved Areas of Canada. He asked what measures the Government intended to take to strengthen environmental regulations that took into account the significant human rights impact of climate change in Canada.

37. He asked what means the federal Government had at its disposal to require that provinces and territories assess the human rights impact of the austerity measures they adopted so as to ensure that they did not disproportionately affect women or disadvantaged or marginalized groups. The austerity measures recently introduced in Quebec were evidence of the need to address structural discrimination against women at a more fundamental level and to reinstate the Canada Assistance Plan that empowered the federal Government to require that provincial and territorial governments should give effect to economic and social rights.

38. **Mr. Abdel-Moneim**, noting that, in its general comment No. 15, the Committee had considered the legal bases of the right to water to include articles 11 and 12 of the Covenant, said that he would welcome clarification on whether or not the State party recognized the right to water.

39. **Ms. Shin** said that she had not received answers to her previous questions on conscientious objection in respect of abortion and education concerning the right to sexual and reproductive health. She asked whether the State party planned to formulate a comprehensive national action plan to guide provincial and territorial governments in achieving genuine progress on such issues as gender equality and multiculturalism. She suggested that Canada, Australia and New Zealand might come together around the theme of multiculturalism and serve as examples for other countries of peaceful and harmonious multicultural societies. Multiculturalism involved a genuine commitment to consulting with marginalized groups in order to share the power and resources held by the dominant group.

40. **Mr. Uprimny** asked whether the Interim Federal Health Programme would be reinstated for undocumented migrants. He said he would like to know the Government's position on the *Toussaint v. Canada* case, in which the Federal Court of Canada had held that the health care necessary to life could be denied to undocumented migrants as a way to encourage compliance with immigration law. He asked what recourse was available to a person denied the right to adequate housing before the courts on the grounds that that right was not enshrined in the Canadian Charter. He invited the delegation to comment on whether section 36 of the Constitution Act of 1982 created a constitutional obligation to provide the kind of essential services required by the Covenant.

41. **The Chair** said that the delegation's statement that the Government was committed to protecting the rights enshrined in the Covenant was insufficient for the Committee's purposes. The Committee's jurisprudence had consistently held that the rights recognized in the Covenant were justiciable and, although some could be realized progressively, others were core human rights that were of immediate effect. The Committee's general comment No. 3 on the nature of States parties' obligations could guide Canada in that regard. The quality of health care in Canada had reportedly deteriorated, and clarification would be welcome as to why it did not cover certain contingencies, such as dental problems.

42. **Mr. Mancisidor De La Fuente** (Country Rapporteur) said that persons with disabilities were reportedly excluded from minimum wage protection, as well as from several other labour protection measures, which could be construed as discriminatory treatment. He asked whether the new Government would attempt to remedy that situation.

The meeting was suspended at 11.50 a.m. and resumed at 12.15 p.m.

43. **Mr. Murphy** (Canada) said that Canada had achieved the highest level of tertiary education attainment in 2014, according to the Organisation for Economic Co-operation and Development, and had made significant progress over the previous two decades in reducing the percentage of Canadians who had not completed high school. A variety of mechanisms were currently available to help Canadians finance and repay the costs of post-secondary education, and the new Government had reaffirmed its commitment to creating more opportunities for young Canadians, especially those from low- and middle-income families, as well as to working with the provinces and territories, within whose exclusive competence education fell, to make post-secondary education more affordable. Measures envisaged included changes that would ease the conditions of the repayment assistance plan and increase annual support to the Post-Secondary Student Support Program for indigenous students.

44. **Mr. Théroux** (Canada) said that the provincial ministers of education cooperated with the federal Government through their membership of the Council of Ministers of Education, and the federal Government provided funding for higher and indigenous education. The Quebec government had supported various measures for the

advancement of African Canadians, including the preparation of a publication on their 400 years of contributions to a shared history in Quebec. Between 1995 and 2005, the number of secondary diplomas it had awarded to African Canadian students had increased by more than 20 per cent. Students under the Cree School Board, the Kativik School Board and in the Naskapi School were taught in their community's indigenous language, and the first language of instruction in primary education in all indigenous communities in Quebec, British Columbia and Ontario was the community's indigenous language, while French or English were introduced later. Children with disabilities in Quebec could enrol in school from the age of 4 and could pursue their education until the age of 21 in ordinary classes, specialized classes or specialized schools. In Quebec, professionals, such as lawyers or nurses, who worked for a government enterprise were allowed to join trade unions but those in private practice, as well as managers, were not unionized.

45. **Mr. Lewis** (Canada) said that the Ontario authorities had invested heavily in the education system and had adopted a variety of measures to ensure that children from all backgrounds received a high-quality education. The Aboriginal Education Strategy had been introduced in recent years to improve the educational opportunities for indigenous children and promote First Nations culture and history. The Equity and Inclusive Education Strategy, which contained specific provisions for African Canadian students, also provided training and support to remove any prevailing discriminatory barriers to educational achievement. In addition, efforts had been made to include children with disabilities in mainstream schools and provide them with the necessary learning assistance.

46. **Mr. Weldon** (Canada) said that the Government intended to lift the 2 per cent cap on funding for indigenous communities and would reform the education system so that it better met the needs of First Nations students. The decision to put the First Nations education bill on hold had been taken so that further consultations could be held between the Government and indigenous communities. Local authorities already provided teaching to children living on indigenous reserves and would work with First Nation communities on additional ways to engage indigenous children in education.

47. The Government remained strongly committed to improving housing and living conditions on indigenous reserves and continued to provide generous housing allowances to indigenous communities for any necessary repair or construction work. Concerted efforts had also been made to improve the access of First Nations communities to potable water and sanitation facilities, and it was hoped that safe drinking water would be made available in all indigenous reserves within five years.

48. **Mr. Campbell** (Canada) said that, notwithstanding the few areas requiring minor improvement, the national health-care system could not be faulted and provided exemplary care for all citizens. Some Can$ 34 billion were spent on health care every year, around Can$ 2.5 billion of which was allocated to the provision of health-care services for indigenous persons, particularly those living in remote and rural indigenous reserves. Primary health-care services, including emergency response teams, had been made available to 80 remote indigenous communities over recent years. Regarding access to abortion services, local authorities were duty-bound to ensure access to safe abortion treatment for women who required it and the cost of the procedure was covered by territorial and provincial health-care insurance policies.

49. **Mr. Platt** (Canada) said that the Government had taken decisive action to strengthen its environmental assessment strategies and ensure that all future projects adhered to robust environmental protection standards. Ordinary citizens and environmental experts would also be given the opportunity to voice their opinions or concerns on potential projects in future.

50. **Ms. Filion** (Canada) said that, while it was true that the phenomenon of homelessness was not expressly referred to in the Canadian Charter of Rights and Freedoms or the Canadian Human Rights Act, the national courts had ruled that it constituted a violation of section 7 of the Charter in cases where homeless persons were subject to a serious risk of harm which threatened their right to life, liberty and security of the person. Regarding housing disputes, there were several means of legal redress available to victims: they could bring a claim before the courts for arbitrary or illegal eviction or could file a complaint under federal, provincial or territorial human rights legislation if their housing rights had been violated in other ways.

51. **Mr. Sandstrom** (Canada) said that the Supreme Court of British Columbia had ruled in favour of homeless persons in two cases, namely *Victoria (City) v. Adams* and *Abbotsford (City) v. Shantz*. It had found that sleep and shelter were necessary preconditions to liberty and security of the person pursuant to section 7 of the Canadian Charter of Rights and Freedoms. The court had held that allowing homeless persons to erect temporary shelters overnight represented a reasonable compromise between the needs of homeless persons and the rights of other residents in the cities concerned. For its part, the Government had made a large number of temporary accommodation places available in an effort to provide homeless persons with necessary shelter and support.

52. **Mr. Murphy** (Canada) said that the figure previously quoted of 150,000 homeless persons represented the number of persons that used temporary homeless shelters. The actual number of homeless persons was, in fact, much larger. Persons with disabilities enjoyed the same rights in the labour market as other citizens and were entitled to receive the national minimum wage.

53. **Mr. Scoffield** (Canada) said that migrants, refugees and stateless persons had access to the national health system as long as they were registered with the authorities and had submitted an application to remain in the country. Migrant, refugee and stateless children also had access to education. Furthermore, the Government had taken steps to improve the integration of refugee children into mainstream education by appointing specialist outreach workers in schools to work with the children concerned and their parents.

54. **Mr. Mancisidor de la Fuente**, thanking the delegation for its insightful replies, said that he welcomed the participation of representatives from all levels of government during the dialogue. Moving forward, the State party should spare no efforts in its progress towards the de facto implementation of the Covenant and should ensure that the robust commitments made before the Committee were translated into concrete actions.

55. **Ms. Wernick** (Canada) said she thanked the Committee members for their detailed comments and that her Government would use the Committee's recommendations as a means to strengthen its implementation of the Covenant. Additional information to supplement the delegation's answers would be provided in writing at a later date.

The meeting rose at 1 p.m.